



## Policy 719

Subject <b>CONDUCTED ELECTRICAL WEAPON</b>	
Date Published <b>DRAFT 9 October 2023</b>	Page <b>1 of 13</b>

*By Order of the Police Commissioner*

### **POLICY**

The purpose of this policy is to establish guidelines for proper maintenance and deployment of the Conducted Electrical Weapon (CEW).

**While members must at all times comply with the minimum legal requirements governing the use of force, they must also comply with even stricter standards set forth by Department policy (See Policy 1115, *Use of Force*).**

### **CORE PRINCIPLES**

**Use of Force: CEW.** The CEW can be an effective, safe, and lawful tool when used properly and in the proper circumstances. As more fully set forth in this policy and in Policy 1115, *Use of Force*, the authorized use of the CEW is restricted.

**Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.

**Value and Worth of All Persons.** All human beings have equal value and worth and members shall respect and uphold the value and dignity of all persons at all times.

**Peaceful Resolutions.** Members shall avoid the Use of Force unless it is not possible to do so.

**De-Escalation.** Members shall use De-Escalation Techniques and tactics to reduce any threat or gain compliance to lawful commands without the Use of Force or with the lowest level of force possible (See Policy 1107, *De-Escalation*).

**Avoiding Escalation.** Members shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.

**Assessment.** Members shall continuously assess each situation and change the member's response as the circumstances change. Members may be justified in using force in one instance, but not justified in using force an instant later. This duty to assess includes the continuous assessment of circumstances before and after the member uses force.

**Use of Force: Reasonable, Necessary, and Proportional.** Members shall use only the force reasonable, necessary, and proportional, to respond to the threat or resistance to effectively and safely resolve an incident and will immediately reduce the level of force as the threat or resistance diminishes.

**Reporting Use of Force.** Each member who uses force or observes another member or members use force shall immediately notify their supervisor and will accurately and completely report the Use of Force by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).

**Duty to Intervene.** Members shall intervene to prevent the abusive conduct or the use of excessive force by another member (See Policy 319, *Duty to Intervene*).

**Duty to Provide Medical Assistance.** After any Use of Force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance. If restrained, persons are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms. Restrained persons are to be placed in a seated position or on their sides.

**Accountability.** Members shall be held accountable for uses of force that violate law or policy.

**Retaliatory Force.** Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other retaliatory reason (See Policy 804, *First Amendment Protected Activity*).

## **DEFINITIONS**

**Active Aggression** — Active Aggression is when a person attacks or attempts to attack a member or another person. Strikes, kicks, or attempted strikes or kicks with hands, fists, the head, elbows, knees, or an instrument, constitute Active Aggression.

**Aggravated Aggression** — Aggravated Aggression is when a person presents an Imminent Threat of death or Serious Physical Injury to the member or another person based on the Totality of the Circumstances. Aggravated Aggression represents the least encountered but most serious threat to a member or other person. Even when confronted with Aggravated Aggression, the member is required to make every reasonable effort to de-escalate and to continuously assess the member's Use of Force.

**Arc Switch** — The Arc Switch is located on either side of the device at touch-point. When the CEW safety switch is selected on FIRE mode, the Arc Switch will, when depressed, spark the probes up to five seconds.

**Conducted Electrical Weapon (CEW)** — A weapon designed to discharge electrical impulses in two modes:

**Drive Stun** — Pulling the trigger on the CEW with the cartridge removed or discharged, and placing the electrodes upon the skin/clothing of the person. Drive Stunning does not cause neuro-muscular incapacitation but causes severe pain.

**Probes Deployment** — Probes Deployment is the primary way that CEWs are used. With a cartridge attached, pulling the trigger fires two probes with barbs on the end that can penetrate the clothing or skin of a person. The two probes are connected to the CEW by wires and upon contact, if an electrical circuit is established, the CEW delivers pulsed electricity into the person, and overrides the person's voluntary motor function. Probes Deployment also causes significant pain.

NOTE: TASER is a registered trademark of TASER International, Inc., and can only be used to identify a TASER brand CEW.

**Deadly Force/Lethal Force** — Any force likely to cause death or Serious Physical Injury, whether the member intended to cause death or Serious Physical Injury or not. Examples of Deadly Force/Lethal Force may be found listed within the definition of Level 3 Use of Force.

**De-Escalation Techniques** — De-Escalation Techniques are actions taken by members that are designed to eliminate the need to use force in order to resolve any event or situation. De-Escalation Techniques include: talking to a person using a tone of voice and language that is not aggressive or confrontational; creating space or placing barriers between the member and the person; waiting the person out when circumstances permit; permitting a person to move about when safe; permitting a person the opportunity to make statements or ask questions; slowing down the pace of an incident; tactical re-positioning and requesting additional resources. The guiding principles for de-escalation are patience, flexibility, and the desire to resolve each situation peacefully (See Policy 1107, *De-Escalation*).

**Displaying the Arc** — Displaying the Arc is when the member depresses the Arc Switch, resulting in a visible electric current and associated sounds.

**Imminent Threat** — A person presents an Imminent Threat when the person has the means and ability to harm the member or another person, and the member reasonably believes the person intends to deliver that harm.

**Positional Asphyxia** — A form of asphyxia which occurs when a person's position, typically while restrained on their stomach, prevents them from breathing adequately.

**Resistance** — Members may face the following types of Resistance to lawful directives:

**Active Resistance** — Active Resistance is when a person moves to avoid detention or arrest but does not attack or attempt to attack the member or another person. Attempts to leave the scene, fleeing, hiding from detection, physical resistance to being handcuffed, or pulling away from the member's grasp are all examples of Active Resistance. Verbal statements, bracing, or tensing alone do not constitute Active Resistance. A person's reaction to pain caused by a member or purely defensive reactions to force does not constitute Active Resistance.

**Passive Resistance** — Passive Resistance is when a non-assaultive person fails to comply with the member's commands without attempting to flee. Passive Resistance may include, but not be limited to, going limp, standing stationary and not moving based upon lawful direction, and/or verbally signaling an intention to avoid or prevent being taken into custody.

**Spark Tests** — Members shall turn the safety switch to the "FIRE" position and depress the Arc Switch, allowing the electrical current to pulse for one full cycle (approx. five seconds). The test shall assist the member in determining the functionality and the battery life of the device.

**Standard Cycle** — When the member pulls the trigger in Probes Deployment or depresses the Arc Switch in Drive Stun mode, the CEW will deliver electricity for five (5) seconds. To deliver additional electricity, the member will depress the Arc Switch again.

**Totality of Circumstances** — The Totality of Circumstances consists of all facts and circumstances surrounding any event. The facts and circumstances may include but are not limited to:

- Whether an offense has occurred;
- The nature of the offense;
- The seriousness of the offense;
- The size and strength of the person;
- The number of persons;
- The availability of weapons;
- Whether the person is exhibiting signs of mental illness or is experiencing a behavioral health crisis;
- Whether a person suffers from a medical or behavioral health disability, physical or hearing impairment, is impaired by alcohol or drug use, or may be non-compliant due to a language barrier;
- Other force options;
- Availability of non-force options, including tactical repositioning, going to cover, or other De-Escalation Techniques;
- Environmental factors;
- Availability of back up and specialized units.

**Use of Force** — Any Use of Force or threat of force that falls within Level 1, Level 2, or Level 3 force as defined in Policy 1115, Use of Force, regardless if these techniques make contact or result in visible injury.

## **DIRECTIVES**

### **Permitted Use**

1. Any Use of Force must be preceded by an analysis, to the greatest extent possible, applying the principles of the sanctity of life, critical thinking and decision-making, and De-Escalation. These principles must be an ever-present priority as a member is making the serious decision of whether to use any type of force, and particularly when using Deadly Force/Lethal Force. Any use of a CEW qualifies as a Use of Force, and may only be used when reasonable, necessary, and proportional.
2. Members shall use the CEW only when grounds for arrest or detention are present and the person is exhibiting Active Aggression or Aggravated Aggression.
3. Members shall consider whether an individual's actions are the product of a behavioral health disability or crisis or the influence of drugs/alcohol. Members shall also consider whether the individual is physically or hearing impaired or there is a language barrier. If so, the member shall attempt to use other resources (e.g., CIT officer, Qualified Bilingual Member) with a goal of avoiding use of the CEW if possible.

4. Members shall provide verbal and/or visual warnings, such as Displaying the Arc, whenever possible and safe to do so, and shall allow the person an opportunity to comply.
5. There is a risk that when the CEW is fired other members will mistake it for gunfire and respond by shooting. This is known as “contagious fire.” To minimize the risk of contagious fire, prior to deploying the CEW, if possible and safe, the member shall loudly announce that the “Taser is being deployed” are a safe distance from the person before the CEW is deployed.
6. Members shall attempt to control/handcuff a person while the person is under the effects of a successful CEW deployment.
7. Members shall use the least amount of CEW deployment cycles necessary to accomplish a lawful objective.
8. The most effective target for Probes Deployment is the back, below the neck and above the waist. Members shall aim for the back whenever possible. If the only target presented is the person’s front, the member shall aim for the lower torso, below the chest.

**NOTE:** Intentional CEW deployment to the head, neck, face, chest, or groin is Deadly Force/Lethal Force. The member may target those areas only when Deadly Force/Lethal Force is justified.

9. After the first CEW application, members shall assess whether subsequent cycles are necessary.
10. If a Probes Deployment is successful, the person will be unable to respond to commands. In assessing whether any additional application is reasonable, necessary, and proportional, the member shall allow sufficient time for the person to comply. A lack of response cannot be justification for further applications of CEW unless the non-compliance presents an Imminent Threat to the member or another person (i.e., the suspect still has a weapon or is within reach of a weapon, or is still exhibiting assaultive behavior).
11. Each Standard Cycle of the CEW is a separate Use of Force and members who deploy a CEW must modulate the Use of Force according to the circumstances. Each deployment must be justifiable.
12. In the event that a member encounters a person clearly posing a danger only to themselves (i.e., suicidal person), members may use a CEW provided the member has exhausted additional De-Escalation Techniques or tactical alternatives.

#### Procedures Following the Deployment of CEW

13. Members shall render aid to any person who was subjected to a CEW. Members shall summon EMS and immediately request that a permanent-rank supervisor respond to the scene.
14. After the use of the CEW, most people will recover quickly and will appear normal. When summoning EMS, the member shall inform EMS that a CEW was used on the person and advise EMS personnel if the person lost consciousness, is not fully responsive, exhibits any signs of distress, sustains a secondary injury (e.g., as the result of a fall), and/or was struck in sensitive areas (e.g., face, eyes, neck, chest, breast, and groin). The member shall tell EMS of the approximate time when the CEW was used. If the probes made contact with the person, the responding EMS Unit will transport the person to the hospital to have the probes removed. Members shall not remove barbs embedded in the persons flesh.

15. Members shall treat Probes Deployments to sensitive areas or anything other than a quick return to normal by the person as a medical emergency and will request an expedited response from EMS.

NOTE: Probes Deployments to the chest can cause fatal heart attack.

16. Members shall continuously monitor a person who was subjected to a CEW, render aid as necessary, and notify EMS of any changes.
17. Following all deployments, members shall download their CEW data and retrieve a charged battery from the district docking station or the Evidence Control Unit (ECU).

#### Accidental Discharges

18. Members shall be accountable for every trigger pull of the CEW.
19. If a member has an accidental discharge of a CEW or detects a damaged cartridge, the member must notify a supervisor immediately. The member's first-line supervisor shall conduct an investigation as to the circumstances of the discharge/damage.
20. An Administrative Report (Form 95) signed by an authorizing permanent-rank supervisor and the signed CEW Cartridge Replacement Form (Appendix A) is required to be turned into the Armory (or ECU if Armory is closed) to receive a replacement cartridge.
21. If an accidental discharge occurs and a person is struck, members shall immediately render aid and notify EMS, following the Procedures Following the Deployment of CEW outlined above. The member shall then notify a supervisor, who will confiscate the CEW and initiate a use of force review (See 725, *Use of Force Reporting, Review, and Assessment*).

#### **Prohibited Use**

22. Except where Deadly Force/Lethal Force would be permitted (See Policy 1115, *Use of Force*), the member shall not use a CEW:
  - 22.1. Deployed to an area not within the proper target zone. **If a CEW is deployed, and the probes contact an area outside of the proper deployment zone (e.g., head, neck, face, chest, or groin) DO NOT activate additional deployment cycles unless Deadly Force/Lethal Force is permitted.**
  - 22.2. If the person has been exposed or is in proximity to the MK-9 Pepper Fogger or flammable material, such as gasoline or an alcohol-based pepper or OC spray. (BPD OC Spray is water-based).
  - 22.3. If the person is in standing water.
  - 22.4. If the person is obviously pregnant.
  - 22.5. If the person is apparently elderly.
  - 22.6. On an individual who the member knows is a preteen or younger, or an individual who is a preteen or younger and whose age is objectively apparent to a reasonable member,



unless the encounter rises to a situation in which the only available alternative is Deadly Force.

- 22.7. If the person is visibly frail or appears to have a low body mass.
- 22.8. If the member has information that the person has a disability or condition that would increase the danger to that person if exposed to a CEW deployment (e.g., a person at the scene tells a member that the person has a heart condition). Alternative tactics shall be considered in these cases.
- 22.9. If the suspect is fleeing and does not pose an Imminent Threat of physical harm to the member or others. Flight will never be the sole reason for applying a CEW on a person.
- 22.10. If the person is in physical control of a vehicle in motion. For the purposes of this policy "Vehicle" includes any low speed motorized vehicles such as a bicycle, moped, or scooter.
- 22.11. If a person is in danger of falling from an elevated position where a fall is likely to cause substantial injury or death.
- 22.12. For more than three Standard Cycles or 15 total seconds against a person during a single incident, regardless of the number of members who may deploy a CEW against the person.
- 22.13. In Drive Stun mode applied to a person's head, neck, face, chest or groin.
- 22.14. When there is already a CEW deployed on a person. No more than one member may deploy a CEW on a person at a time.

**NOTE:** While a CEW can be used on two subjects at the same time, members must be aware that both deployed cartridges will be energized when either the trigger or Arc Switch are pressed. Force must be justified for both subjects in instances of dual deployment.

- 23. Members may not use the CEW on handcuffed or restrained persons except in the rare and very limited instances when:
  - 23.1. The person is displaying combative and/or violent behavior, and
  - 23.2. Presents an Imminent Threat to the safety of the member and/or other persons, and
  - 23.3. Lesser means or attempts to resolve the incident such as hands-on arrest or control techniques have failed.

**NOTE:** The CEW may not be used against a restrained person when the threat presented is only to property.

- 24. The following uses of the CEW are **always** prohibited:
  - 24.1. To intimidate by reckless display.
  - 24.2. To punish a person.

24.3. If the CEW is or has been submerged in water or other liquid (Do not turn on a CEW that has been submerged in water. Immediately take the CEW to the Armory Unit.).

24.4. To overcome a person who is engaging in only Active or Passive Resistance.

25. Members shall not use CEWs in Drive Stun mode as a pain compliance technique. Drive Stun mode is only to supplement the Probes Deployment to complete the incapacitation circuit.

**EXCEPTION:** Because it is not designed to incapacitate the person, usage of Drive Stun mode to create distance between the member and the person, so that the member can consider another force option, is only allowed when the circumstances present the prospect of imminent harm to the member or the public, and the member reasonably believes the threat requires Drive Stun usage to create tactical distance.

26. Do not carry BPD CEWs while off-duty, unless working approved secondary employment while in uniform.

### CEW Deployment as a Use of Force

27. Any use of a CEW qualifies as a use of force consistent with Policy 1115, *Use of Force*. Specifically,

28. Pointing a CEW at a person and/or "Displaying the Arc" is considered Level 1 Use of Force.

29. Most uses of a CEW in Probes Deployment or Drive Stun mode shall be reported as a Level 2 use of force.

30. Use of a CEW for more than 3 Standard Cycles on a person from one member or cumulatively among members shall be reported as Level 3 use of force.

31. Deploying a CEW that strikes the head, neck, face, chest, or groin area will be investigated as a Level 3 Use of Force.

### Reporting

32. All members shall adhere to the use of force guidelines found in Policy 725, *Use of Force Reporting, Review, and Assessment*.

33. Members shall notify a permanent-rank supervisor immediately, or as soon as practicable, following a Use of Force. The supervisor will notify the Shift Commander by the end of the shift during which the force occurred. The notification will contain basic information concerning the incident. Any member with knowledge that another member used force must also immediately report that Use of Force to a permanent-rank supervisor. In all instances, the permanent-rank supervisor will conduct a thorough review of the Use of Force, and document this review by completing a BlueTeam entry before the conclusion of the supervisor's tour of duty.

34. All members shall document any additional injury that occurred as a result of a CEW being used on a person (See Policy 725, *Use of Force Reporting, Review, and Assessment*).



35. When a CEW is deployed in a Use of Force, members shall submit a Cartridge Replacement Form (Appendix A) to the Armory (or ECU if Armory is closed) to receive a replacement cartridge.
36. All members shall clearly articulate the following regarding the use of a CEW on a Force Report, Form 96, every time a CEW is deployed. The report shall include:
  - 36.1. Number of CEW cycle(s) used or attempted against a person.
  - 36.2. Location that the probe(s)/CEW contacted the person.
  - 36.3. Effectiveness of the CEW deployment.
37. The failure of any commander, supervisor, or member, to fulfill any of the requirements of this policy will not prevent, inhibit, or otherwise affect the ability of the Department to conduct an investigation of any misconduct arising from a Use of Force incident or to otherwise discipline a member for any violation of this policy.

## **REQUIRED ACTION**

### **Members**

38. Members shall carry CEWs in a weak-side holster to reduce the chances of accidentally drawing and/or firing a firearm.
39. Members shall not tamper, alter, or in any way modify the CEW.
40. Prior to each tour of duty, members shall perform a Spark Test of their assigned CEW.
41. If submerged in water, take out of service and respond to the Armory Unit. Do not attempt to Spark Test the CEW.

### **Downloads**

42. Members are responsible for downloading their CEW at least once per month.
43. The CEW may be downloaded at the District docking station, the Armory, or ECU.
44. Additional requests to download CEW data may be made at any time by the member's commanding officer, PIB, or any other responsible authority.

### **First Line Permanent Rank Supervisors/Shift Supervisors**

45. Upon being notified that a subordinate deployed a CEW, supervisors shall:
  - 45.1. Ensure medical attention is requested and is administered.
  - 45.2. Ensure subordinates adhere to protocols listed in this policy consistent with the method of CEW deployment.

- 45.3. Conduct a Use of Force review consistent with Policy 725, Use of Force Reporting, Review, and Assessment. Enter the Use of Force into BlueTeam.
- 45.4. A supervisor not involved in the incident shall take possession of the CEW, and ensure its data is downloaded by the end of their tour of duty after being deployed during a Use of Force.
- 45.5. Complete "CEW Cartridge Replacement" form, sign it and give to the member, or scan and email it to the Armory Unit directly.
- 45.6. Ensure any spent cartridges and probes are submitted to the Evidence Management Unit (EMU) after a Use of Force.
- 45.7. Ensure any spent cartridges and probes are submitted to the Armory Unit after an accidental/unintentional discharge. If a person was struck with a probe during an accidental/unintentional discharge, submit the cartridge and probes to EMU.
- 45.8. Ensure subordinates obtain replacement cartridges, as needed, from the Armory Unit or EMU.
- 45.9. Ensure subordinates have their CEW data downloaded at a District Station, the Armory, or EMU before the end of their shift.
- 46. Issued CEWs and cartridges shall be inspected by first-line supervisors monthly, consistent with the BPD's firearms policy (See Policy 409, *Firearms Regulations*). If any issue is noted, first-line supervisors shall report it on a Form 95, and submit it to command. If a "weapon error" is noted on the CEW display (See Appendix B), that CEW is to be taken out of service and taken to Armory Unit as soon as possible.

#### Armory Unit

- 47. Armory Unit personnel shall replace spent CEW cartridges only upon receiving a copy of the CEW Cartridge Replacement Form.
- 48. Due to potential bio-hazard conditions, Armory Unit personnel shall not accept probes involved in a use of force deployment. Members will be directed to submit spent probes to EMU.
- 49. Armory Unit personnel shall review member compliance with CEW download requirements.
- 50. Armory Unit personnel shall download data from the CEW when scheduled or after a CEW use of force.
- 51. Armory Unit personnel shall notify the respective commanding officer via official channels when members fail to have their CEW data downloaded and/or indicators of abuse arise.

#### Evidence Management Unit (EMU)

- 52. EMU shall ensure cartridges and probes are packaged consistent with bio-hazard standards prior to submission.

53. If Armory is closed, EMU shall ensure that a replacement CEW cartridge(s) are issued to deploying member upon submission of any spent cartridge and inclusion of signed CEW Cartridge Replacement Form (Appendix A).
54. EMU shall advise the Armory Unit when CEW replacement cartridges are needed, and before they are fully depleted.

#### **Education and Training Section (E&T)**

55. The Commander of E&T Section shall ensure that members re-certify with the CEW annually after the initial certification.

#### **Performance Standards Section**

56. The Performance Standards Section shall ensure that random audits of CEW application data are conducted. The audit shall include a comparison of the downloaded data to the Use of Force BlueTeam entries. Discrepancies within the audit will jointly be investigated by E&T and the Public Integrity Bureau (PIB).
57. The Performance Standards Section shall forward reports of discrepancies or abuse to the appropriate member's commanding officer and the Deputy Commissioner of PIB.

#### **APPENDICES**

- A. CEW Cartridge Replacement Form
- B. Central Information Display Guide

#### **ASSOCIATED POLICIES**

Policy 409, *Firearms Regulations*  
Policy 725, *Use of Force Reporting, Review, and Assessment*  
Policy 1107, *De-Escalation*  
Policy 1115, *Use of Force*  
Policy 1401, *Control of Property and Evidence*

#### **RESCISSION**

Rescind Policy 719, *Conducted Electrical Weapon* dated 24 November 2019.

#### **COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

**APPENDIX A****CEW Cartridge Replacement Form**

Baltimore Police Department  
**CEW Cartridge Replacement**

Type of Deployment

Date of Report

**Incident Information**

CC #

Discharge Date

Time of Incident

Location:

Type of Incident

Deployment Mode

Discharge Reason

**Suspect Information**

Race

Gender

Age

Point(s) of Impact

Weapon

Threat of Weapon

Injuries

Deaths

Medical Care

CEW Serial Number

Discharged Cartridge Serial Number(s)

Supervisor's Signature

Seq #

**Cartridge Replacement Information (Armory Use Only)**

Replacement Cartridge Serial Number(s)

Replaced by:

Date of Replacement

**Cartridge Type:**

Close Quarter (12)

Stand Off (3.5)

**APPENDIX B****Central Information Display Guide****Central Information Display (CID) BASICS**

Full Battery



Cartridges Loaded



Count Up



Deployed Bay #1



Recharge Battery (Blinks)



Battery Error (Blinks)



Cartridge Error Bay #1



Weapon Error Identified



Firmware Version Display